



Report to the Legislature

Criminal Mistreatment Implementation Plan

Chapter 219, Laws of 2002, Section 15

December 1, 2002

Department of Social & Health Services
Children's Administration
Division of Program and Policy Development
PO Box 45710
Olympia, WA 98504-45710
(360) 902-8065
Fax: (360) 902-7903

CRIMINAL MISTREATMENT IMPLEMENTATION PLAN

TABLE OF CONTENTS

Executive Summary	1
Introduction	2
Summary of the Act	2
The Criminal Mistreatment Task Force meetings	2
The Implementation Plan	3
Revisions in the department's identification of the need for services	3
Children's Administration's Response to Serious Neglect	4
Ways to enhance cooperation with law enforcement agencies during and following the investigation and trial for criminal mistreatment charges	6
Possible improvements in the methods of response to families charged with criminal mistreatment	7
Suggestions for efforts to reduce the number of criminal mistreatment charges through improved identification of incidents and trends that are markers of potentially serious family stress and Improved identification of incidents that may precede such charges and are indicators of a need for offering of services	8
A review of the adequacy of current sentencing for violations of the criminal mistreatment statutes	10
Table 1: Standard Range Sentences of crimes against persons organized by degree of injury	11
Task Force Recommendations	12
Attachment 1: Criminal Mistreatment Task Force Members	13

Executive Summary

This is the implementation plan for Chapter 219, Laws of 2002, Criminal Mistreatment. Section 15 makes provision for the Department of Social and Health Services (DSHS) to prepare a one-time plan for improved coordination between the Office of the Attorney General and organizations representing law enforcement agencies when a family member is charged with criminal mistreatment under chapter 9A.42 RCW. The following is a summary of the information required by this law.

- Revisions in DSHS' identification of the need for services for the families following an arrest and filing of criminal mistreatment charges and delivery of services;
- Ways to enhance cooperation with law enforcement agencies during and following the investigation and trial for criminal mistreatment charges;
- Improved identification of incidents which may precede such charges and are indicators of a need for offering of services;
- Possible improvements in the methods of response to such incidents;
- Suggestions for ongoing efforts in reducing the number of criminal mistreatment charges through improved identification of incidents and trends that are markers of potentially serious family stress; and
- A review of the adequacy of current sentencing for violations of the criminal mistreatment statutes.

The task force addressed each of the required items in the implementation plan. The task force specifically addressed the following issues:

- Agencies involved in the implementation of the law;
- Current barriers for the implementation of the law; and
- Recommendations for achieving implementation goals.

The task force recommended:

- Better communication within and between agencies;
- Better training within and between agencies; and
- A coordinated response to serious neglect by the community and agencies.

Other observations of the task force included:

- Serious neglect is more difficult to address than other forms of abuse;
- The cumulative affects of neglect are not always readily visible; and
- There is a strong community and agency commitment to the neglect issue.

Children's Administration also developed additional strategies for the agency's internal implementation of the law.

Introduction

Summary of the Act

The new law creates a new crime of criminal mistreatment in the fourth degree, an element of which is causing extreme emotional distress. It also creates a process for parents charged with a misdemeanor criminal mistreatment of a child to receive a deferred prosecution while receiving child welfare services from DSHS' Children's Administration (CA). The parent would need to petition the court and cooperate with CA in developing a case history and written service plan. The parent would also need to verify their status as the natural or adoptive parent if the parent opts for the deferred prosecution.

The law requires law enforcement to notify either the department's Child Protective Services (CPS) or Adult Protective Services (APS) when a person is arrested for criminal mistreatment of a dependent person child or vulnerable adult.

Other provisions of the law include:

- Earlier intervention coordination by DSHS and law enforcement in cases of criminal mistreatment.
- Deferred prosecution in cases of criminal negligence.
- A police officer may arrest a person when responding to a call alleging that a child or vulnerable adult has been subjected to criminal mistreatment
- Termination of parental rights with regard to the child for new abuse or neglect will serve as evidence that the parent did not complete the child welfare service plan.

The Criminal Mistreatment Task Force Meetings

Participation on the Criminal Mistreatment task force included statewide representation from sheriff and police departments, prosecuting attorneys, Office of the Attorney General, DSHS, legislators and legislative staff, Office of the Family and Children's Ombudsman, and community child advocates. Two meetings were held, one on July 30, 2002, and one on August 26, 2002.

The first meeting provided a format for discussion of the bill and implications for practice across the disciplines represented on the task force. Out of that discussion, the following key points were identified:

- Children's Administration should follow current DSHS timelines in working with families regardless of criminal proceedings;
- Training and notification to each agency's field staff will be critical in coordinating a response to a parent charged with criminal mistreatment;

- A parent charged with criminal mistreatment will most likely have some CPS history;
- CA may or may not file a dependency in cases of criminal mistreatment;
- The utilization of the new law will likely look different in each of the regions in the state due to differences in local department and police practice;
- The fiscal and workload impact for each agency will be determined by the actual increase in the number of cases and how cases are handled in the legal system;
- The number of families impacted by this bill may be minimal;
- Gross misdemeanors are usually prosecuted in municipal courts rather than superior courts; and
- Municipal prosecuting attorneys may use local ordinances that mirror state laws in prosecuting a person charged with criminal mistreatment.

At the second meeting, the task force members discussed each item of the Implementation Plan. The task force specifically addressed the following issues:

- Agencies involved in the implementation of the law;
- Current barriers for the implementation of the law; and
- Recommendations for achieving implementation goals.

The task force members were given the opportunity to review the draft implementation plan and make suggestions for additions and revisions to the plan.

The Implementation Plan

➤ Revisions in the department's identification of the need for services for the families following an arrest and filing of criminal mistreatment charges and delivery of services

1. A parent charged with criminal mistreatment charges would be referred to Children's Administration (CA) by law enforcement after an arrest. CA would screen in the referral for investigation. The investigation and services provided for the family would be consistent with services provided currently under CPS statutes and policy. If the parent did not agree to services or to a deferred prosecution, CA might file a dependency action. If the parent requested a deferred prosecution, CA would be responsible for developing a case history and written service plan for the person charged with criminal mistreatment. The service plan would be filed with the court and given to the prosecutor assigned to the case.
2. In addition, the law also states that CA would conduct an investigation and an assessment to determine:

- (a) Does the person suffer from the problem described?
 - (b) If no CA services are provided, will similar problems continue?
 - (c) Is extensive and long-term treatment required?
 - (d) Is effective treatment available?
 - (e) Is the person willing to cooperate with CA?
3. Service providers offering services requested by CA will make a report to the court every three months for the first year and every six months in the second year.
 4. DSHS would be responsible for development of:
 - Washington Administrative Code (WAC);
 - Program instruction for Division of Children and Family Services (DCFS) staff; and
 - Manual revisions.
 5. Children's Administration representatives on the task force also made the following recommendations for agency implementation:
 - Child Protection Team (CPT) staffings would be required for a parent charged with criminal mistreatment and receiving CA services;
 - At minimum, the prosecuting attorney involved in the case would be encouraged to attend the CPT staffing;
 - CPT coordinators would also be encouraged to actively ask prosecutors, police, sheriff, and Department of Corrections personnel to sit on community CPTs as regular members; and
 - A specific person from Law Enforcement (LE) should be assigned as a contact person during the deferred prosecution

Children's Administration's Response to Serious Neglect

1. Children's Administration is currently addressing the issue of serious neglect. Not only is this a pervasive problem in the state of Washington but across the nation as well. Neglect referrals to CPS are growing at alarming levels. From 1988 to 2000, the number of neglect allegations has more than doubled, up 131%, from 17,336 to 40,127, though the rate of increase of other types of allegations during that period was only 8%, from 25,420 to 27,392. From 1997-2000, the number of neglect allegations continued to increase, whereas the number of physical and sexual abuse allegations decreased during the same period.
2. Development and passage of this statute is one example of how CA is working with legislators and law enforcement to address the pervasive issue of serious neglect. Earlier research by Office of Children's Administration Research (OCAR) indicated that, overall, neglect referrals are more likely to be classified as low risk, but have a higher re-referral rate. Often risk is assessed as high, but there has been no legal basis for

intervention, and the case may be closed after investigation. This statute is a beginning point for providing a legal basis for intervening in serious neglect cases.

3. Other policy and practice issues deserve ongoing agency examination. Of particular interest has been the chronicity issue, or the number of referrals the agency receives on a particular family. CA is in the process of developing policy to provide more consistent guidelines about the number, frequency, and type of referrals that would warrant a CPS investigation. Many of the families that are re-referred to CPS involve neglect allegations.
4. Not only will CA be addressing the new requirements set forth in this Act, but will continue to assess the most effective ways to address the issue of chronic and serious neglect as it relates to families served by the child welfare system. CA is also participating in the Prevention Pays Work Group as one method to address the neglect issue before it reaches the criminal mistreatment level.

➤ **Ways to enhance cooperation with law enforcement agencies during and following the investigation and trial for criminal mistreatment charges**

Agencies Involved	Current Issue	Recommendations
DSHS CPS/APS/Child Welfare Services (CWS) Police Sheriff Prosecutors Defense Attorneys Office of the Attorney General Service providers Court system	Ineffective communication and coordination of services	1. Develop statewide Child Advocacy Centers (CAC) to address child-abuse using Pierce Co as model. 2. In King County, consider dividing county into four areas for CAC model. 3. Provide training on improved phone communication between CA and Law Enforcement (LE). 4. Provide training on confidentiality issue and sharing of information between agencies. 5. CPS history needs to be available for LE. 6. Include LE on CPT case staffings. 7. Designate LE contact person for CA staff in cases of deferred prosecution. 8. Provide training on sharing information on civil and criminal orders.
	Inadequate Training	1. Provide training for first responders. 2. Provide advanced or specialized training for CPS, APS, LE. 3. Pool agency resources to provide neglect training. 4. Provide a training retreat using the sexual assault model. 5. Train and update current county LE protocols. 6. Provide multi-disciplinary training through the Criminal Justice Training Center. 7. Model a training after the methamphetamine statewide training.
	Other	1. Provide a summit on neglect for both sides of the state. 2. Office of the Prosecuting Attorney should write criminal and dependency standards for neglect cases. 3. Develop a new notification system or sharing of information system.

➤ **Possible improvements in the methods of response to families charged with criminal mistreatment**

Agencies Involved	Current Issue	Recommendations
Defense attorneys Prosecutors DSHS CPS Social Workers Judges Service Providers Families	Effective social worker response to parent and other agencies when criminal mistreatment charges are filed	<ol style="list-style-type: none"> 1. Stay current with local network protocol agreements. 2. Share relevant community resources for families with prosecutors. 3. Communicate to families the seriousness and consequences of their behavior. 4. Communicate honestly and openly with parents about required information sharing to Law Enforcement (LE). 5. Share relevant CPS history with the Prosecutor's office. 6. Identify families appropriate for deferred prosecution. 7. Provide an early assessment of the family's functioning. 8. Develop CPS service plans to address family specific issues related to neglect. 9. Participate in training for CA staff on neglect.
	Training	Educate the community and social workers on resources available for families.
	Other	The Child Advocacy Centers (CAC) model was again suggested.

This portion of the implementation plan has been combined under one heading since the two items are closely inter-related.

- **Suggestions for efforts to reduce the number of criminal mistreatment charges through improved identification of incidents and trends that are markers of potentially serious family stress and improved identification of incidents that may precede such charges and are indicators of a need for offering of services**

Agencies Involved	Current Issue	Recommendations
Community members Family and friends Neighbors Law enforcement	Agency Training for child/vulnerable adult neglect	1. Training videos for LE and others about neglect 2. Training on patterns of neglect 3. Develop clear definition of criminal neglect and chronic and serious neglect 4. Provide clear guidelines for sharing of confidential information between agencies.
Mandatory reporters Permissive reporters	Public Awareness and Education	1. Get word out on 1-866-EndHarm to report neglect to CPS/APS. 2. Develop a public education and marketing campaign much like “the shaken baby” using known experts in the field.
Animal control Teachers and school personnel Fire Department Housing Authority Multi-disciplinary teams	DSHS Practice and Policy Issues	1. Background checks done consistently by APS. 2. Safety plan should be developed for parent with designated support person identified in cases of child neglect. 3. Develop process for providing Family Group Conferences to families of child neglect. 4. Chronicity policy should be developed by CA to help address precursors of chronic child neglect. 5. Identify a CA contact person to coordinate/communicate child neglect efforts. 6. Drop-in visits done instead of announced home visits in neglect cases.
	Other	1. CAC suggested again in cases of child neglect 2. Provide ongoing evaluation of implementation of the Act by Washington State Institute for Public Policy to also include control group to look at CPS

In addition to the recommendations listed above, the task force was interested in the research that currently exists that provides information about trends that are markers of potentially serious family stress. A summary of the research findings is listed below.

In instances of serious neglect, the family typically has been referred to the child welfare system on multiple occasions. Considerable research has been done by the Office of Children's Administration Research (OCAR) on predictors of re-referral and recurrence in child abuse and neglect cases. Specific predictive characteristics for re-referral/recurrence are associated with the child's primary caretaker, including:

- drug and alcohol abuse
- depression
- lack of cooperation with the agency
- domestic violence
- unrealistic parental expectations
- lack of ability to use resources
- lack of motivation to change

In Washington State, high volume DCFS offices screened out or did not accept for investigation approximately 50 percent of calls to CPS. In examining the re-referral rate for approximately 400 cases screened out, OCAR found that children ages 6-12 were more likely to re-refer. Over one-half of the re-referral group had the following characteristics:

- an unrelated adult living in the home,
- female head of household,
- recipient of public assistance,
- prior CPS referrals, and
- two or more children in the family.

The majority of the re-referrals were for neglect. There is some evidence that neglect is associated with single parent, female head of household, low socio-economic status, household crowding, educational level, and family size. Some research found characteristics that differentiated neglecting mothers from non-neglecting mothers over and above poverty. These included:

- poor problem solving abilities
- poor management skills
- low self-esteem
- isolation and loneliness
- personal histories of maltreatment as a child
- history of domestic violence and depression
- substance abuse
- inadequate parenting skills
- unrealistic expectations of their children
- dysfunctional attachment to their children

While there is evidence that parental victimization during childhood, current domestic violence, and past CPS involvement are related to the likelihood that a

caregiver might neglect their children, there is little research on how these risk factors interact or the influence protective factors might have on overall assessment of risk. Decisions regarding what to do with neglect referrals are not as clear cut compared to decisions associated with physical or sexual abuse. Most neglect cases do not result in observable injuries, and there is ambivalence about what is appropriate child rearing practice. Dangerous or unacceptable care of a child is influenced by laws, agency practice, and community standards.

Research conducted by the CA Office of Children's Administration Research (OCAR) also found that neglecting caregivers are assessed by CPS workers as significantly less likely to recognize their behavior as a problem and are, therefore, unlikely to admit it. Neglect often does not involve clear physical harm. While not conclusive, these studies pose troubling questions about the fate of neglect referrals in the child protection system as it currently operates.

Allegations of neglect are the least likely maltreatment reports to meet the threshold for CPS intervention. If a severe case of neglect does enter the CPS system, the child is more likely to be separated from parental custody compared to other types of abuse. However, when CPS resources fail to keep pace with the increase in and the seriousness of referrals, it is likely that even more neglect referrals will be excluded from the CPS system.

Research on the effects of neglect indicates children whose caregivers omit basic parenting and fail to provide basic needs can experience serious delays to their physical, emotional, cognitive, and social development. While such harms may not be "visible," they are nonetheless serious.

➤ **A review of the adequacy of current sentencing for violations of the criminal mistreatment statutes**

The standard range of sentence for crimes of neglect is extremely low when compared to comparable assault crimes requiring the same degree of harm, as shown in Table 1. The fact that victims of criminal mistreatment (neglect) are inherently vulnerable dependent adults or children is particularly troubling, as is the fact that while, in the case of an assault, it may take just a moment to inflict the injury, in the case of neglect, it can take months, or even years, of mistreatment to cause the injury. The result of this disparity is that a criminal that does harm to a dependent child or vulnerable adult by not caring for them is punished by the law at a much lesser degree than the criminal who assaults the vulnerable adult or child.

For example, a criminal who withholds adequate food and water to a child or vulnerable adult over an extended time to the point that the victim might die will receive six to 12 months in jail. A criminal who shoots this victim instead, and causes injury that creates the probability of death, will receive 93-123 months in jail.

TABLE 1

Standard Range Sentences of Crimes Against Persons Organized By Degree of Injury

CRIME	DEGREE OF DAMAGE	Standard Range w/ Offender Score of 0*
Assault of a Child 1	great bodily harm or substantial bodily harm w/ history of abuse	93 - 123 months
Assault 1	great bodily harm	93 - 123 months
Criminal Mistreatment 1	great bodily harm	6 - 12 months
Assault of a Child 2	substantial bodily injury or more than transient/temporary bodily harm w/ history of abuse	31 - 41 months
Assault 2	substantial bodily injury	3 - 9 months
Criminal Mistreatment 2	substantial bodily harm or risk of death/great bodily harm (recklessness)	1 - 3 months
Assault 3	bodily harm w/ a weapon or bodily harm w/ considerable suffering	1 - 3 months
Assault of a Child 3	bodily harm w/ a weapon or bodily harm w/ considerable suffering	1 - 3 months
Criminal Mistreatment 3	substantial bodily harm or risk thereof (negligence)	0 - 12 months Gross Misdemeanor
Assault 4	no injury required	0 - 12 months Gross Misdemeanor
Criminal Mistreatment 4	risk of bodily injury or causes bodily injury or more than transient extreme emotional distress	0 - 90 days Misdemeanor
Animal Cruelty 1	inflicts substantial pain, causes injury to, or kills by undue suffering	0 - 12 months

*all crimes are felonies unless otherwise indicated.

Task Force Recommendations

A number of recommendations were put forward by the task force members. Given the current fiscal climate, it is not possible to implement every recommendation. There are a number of recommendations that are feasible.

Children's Administration will implement the recommendations as stated on page 4 under the section on revising the department's identification of the need for services for the families following an arrest and filing of criminal mistreatment charges and delivery of services. CA will also implement other suggested recommendations in the other sections of the report, within existing resources. Some of those recommendations include training and practice issues.

One elected official participating on the task force suggested that a person be designated who could coordinate the work group suggestions via a central authority to ensure that training is done, to monitor how regions are doing, and to work on different plans. The legislator advocated the position be placed within CA, thinking about accountability and leadership. A designated CA person could facilitate communication with Regional DCFS Administrators within the state. CA will continue to be in contact with the representative and other interested parties to coordinate some of the work group recommendations as listed below.

- Provide multi-disciplinary training through the Criminal Justice Training Center. Several training issues listed in the recommendations would be included in this training. The areas of training would include:
 1. Patterns of neglect
 2. Improved phone communication between CA and LE
 3. Confidentiality issue and sharing of information between agencies
 4. Sharing information on civil and criminal orders
 5. Advanced or specialized training for CPS, APS, LE
 6. Current county LE protocols
 7. Educate the community and social workers on resources available for families.
- It was also suggested that an evaluation of the law by the Washington State Institute for Public Policy could be done to examine the effectiveness of the legislation.

ATTACHMENT 1

Criminal Mistreatment Task Force Members

Joanna Arlow, Legislative Aide, Rep. Dickerson
Teresa Berg, Pierce County Sheriff's Office
Neal Cotner, DSHS DCFS
Carol Cummings, King County Sheriff's Office
Pat Dettling, DSHS Children's Administration
Rep. Mary Lou Dickerson, 36th District
Margaret Files, DSHS DCFS
Marian Gilmore, DSHS DCFS
Stephen Hassett, Attorney Generals' Office
Lisa Johnson, King County Prosecutor's Office
Terri Jones, DSHS DCFS, Union Representative
Sandy Kinney, DSHS DCFS
LaVerne Lamoureux, DSHS Children's Administration
Paul Mahlum, King County Sheriff's Office
Tom McBride, Washington Association of Prosecuting Attorneys
Mary Meinig, Office of Family and Children's Ombudsman
Jeff Norman, DSHS DCFS
Maggie Nave, King County Prosecutor's Office
Capt. John Reed, King County Sheriff's Office
Lorna Rufener, Kent Police Department
Keith Scully, King County Prosecutor's Office
Bruce Thomas, DSHS Children's Administration
Ken Thomas, Kent Police Department
Linda Thomas, DSHS DCFS
Page Ulrey, King County Prosecutor's Office
Lori Melchiori, DSHS, Aging and Adult Services Administration, APS

Others in Attendance

Fara Daun, Senate Staff
Edith Rice, Senate Staff
Bernie Ryan, Senate Staff